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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

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Legend

Acquiring =

Target 1 =

Target 2 =

Target 3 =

Shareholder 1 =

Shareholder 2 =

Shareholder 3 =

Shareholder 4 =

Shareholder 5 =

Year 1 =

Date 1 =

State X =

a =

b =

:

This letter responds to your March 22, 2007, request for rulings on certain federal income tax consequences of a proposed transaction. The information submitted in that request and in later correspondence is summarized below.

Summary of Facts

In Year 1, Target 1, Target 2 and Target 3 each filed an election to be taxed as a Subchapter S corporation. Each target was incorporated in State X. Target 1, Target 2 and Target 3 each file separate federal income tax returns, are calendar year corporations and use the accrual method of accounting. Shareholder 1, Shareholder 2, Shareholder 4 and Shareholder 5 own approximately a percent of the stock of each of Target 1, Target 2 and Target 3. Shareholder 3 owns b percent of the stock of each of Target 1, Target 2 and, Target 3. Shareholder 1, Shareholder 2, Shareholder 3, Shareholder 4 and Shareholder 5 are referred to collectively as the "Shareholders". Target 1, Target 2, Target 3 and the Shareholders are individually and collectively referred to as the "Taxpayer(s)."

The Proposed Transaction

For what is represented to be a valid business purpose, the Taxpayers propose the following transaction (the "Proposed Transaction"):

- (i) Effective on Date 1, the Shareholders formed Acquiring by simultaneously transferring to Acquiring 100 percent of the stock of Target 1, Target 2 and Target 3 (the "Contributions") in exchange for all of the stock of Acquiring. Each of Shareholder 1 through Shareholder 5 will receive one share of Acquiring common stock (or corresponding fractional share of Acquiring common stock) for each share (or corresponding fractional share) of the common stock of Target 1, Target 2, and Target 3 contributed.
- (ii) Immediately following its formation, Acquiring will elect under § 1362 of the Internal Revenue Code ("Code") to be taxed as a Subchapter S Corporation, and Acquiring will make qualified subchapter S subsidiary ("QSub") elections under § 1.1361-3 of the Income Tax Regulations on behalf of each of Target 1, Target 2 and Target 3. The QSub elections will result in the deemed liquidation of each of Target 1, Target 2 and Target 3 for U.S. federal income tax purposes (the "Liquidations").

Representations

In connection with the Proposed Transaction, it has been represented that:

- (a) The fair market value of the Acquiring stock and other consideration received by each shareholder, in each instance, of Target 1, Target 2 and Target 3 will be approximately equal to the fair market value of the Target 1, Target 2 and Target 3 stock surrendered in each exchange.
- (b) Acquiring will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by each of Target 1, Target 2, and Target 3 immediately prior to the Proposed Transaction. For purposes of this representation, amounts paid by each of Target 1, Target 2, and Target 3 to dissenters, amounts used by each of Target 1, Target 2, and Target 3 to pay its respective reorganization expenses, amounts paid by each of Target 1, Target 2, and Target 3 to stockholders who receive cash or other property, and all redemptions and distributions (except for regular normal dividends) made by each of Target 1, Target 2, and Target 3 immediately preceding the transfer will be included as assets of each of Target 1, Target 2, and Target 3 immediately prior to the Proposed Transaction.
- (c) After the Proposed Transaction, the stockholders of each of Target 1, Target 2 and Target 3 will be in control of Acquiring within the meaning of § 368(a)(2)(H).
- (d) At least 40 percent of the proprietary interest in each of Target 1, Target 2 and Target 3 will be exchanged for stock of Acquiring and will be preserved (within the meaning of Treasury Regulation § 1.368-1(e)).

(e) Neither Acquiring nor any person related to Acquiring (within the meaning of Treasury Regulation § 1.368-1(e)(3)) has any plan or intention to reacquire any Acquiring stock issued in the Proposed Transaction in exchange for any consideration other than Acquiring stock.

(f) Acquiring has no plan or intention to sell or otherwise dispose of any of the assets of each of Target 1, Target 2 or Target 3 acquired in the Proposed Transaction, except for dispositions made in the ordinary course of business.

(g) The liabilities of each of Target 1, Target 2 and Target 3 assumed (as determined under § 357(d)) by Acquiring and the liabilities, if any, to which the transferred assets are subject were incurred by each of Target 1, Target 2 and Target 3 in the ordinary course of their businesses and are associated with the assets transferred.

(h) Following the Proposed Transaction, Acquiring will continue the historic business of each of Target 1, Target 2 and Target 3 or use a significant portion of each of Target 1, Target 2 and Target 3's historic business assets in a business.

(i) At the time of the Proposed Transaction, Acquiring will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant to which any person could acquire stock in Acquiring that, if exercised or converted, would affect the acquisition or retention of control (as defined in § 368(a)(2)(H)).

(j) Acquiring, Target 1, Target 2, Target 3 and the Shareholders will each pay their respective expenses, if any, incurred in connection with the Proposed Transaction.

(k) There is no intercorporate debt existing between Acquiring and each of Target 1, Target 2 and Target 3 that was issued, acquired, or will be settled at a discount.

(l) No two parties to the transaction are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(m) The fair market value of the assets of each of Target 1, Target 2 and Target 3 transferred to Acquiring will equal or exceed the sum of the liabilities of each of Target 1, Target 2 and Target 3 to be assumed (as determined under § 357(d)) by Acquiring, plus the amount of liabilities, if any, to which the transferred assets are subject.

(n) Target 1, Target 2 and Target 3 are not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

Rulings

Provided that a valid S Corporation election is made for Acquiring, a valid QSub election is made for each of each of Target 1, Target 2 and Target 3 and based on the information submitted and the representations set forth above, we rule as follows:

(1) The Contributions and Liquidations will be treated for federal income tax purposes as the transfer by each respective Target of substantially all of its assets to Acquiring solely in exchange for Acquiring stock and the assumption by Acquiring of the liabilities of each respective Target. (Rev. Rul. 67-274, 1967-2 C.B. 141).

(2) The transfers by each of Target 1, Target 2 and Target 3 of substantially all of its assets to Acquiring solely in exchange for Acquiring stock and the assumption by Acquiring of the liabilities of each respective Target will each constitute a reorganization within the meaning § 368(a)(1)(D) of the Code. For purposes of this ruling, "substantially all" means at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets. Acquiring, Target 1, Target 2 and Target 3 will each be "a party to a reorganization" within the meaning of § 368(b).

(3) No gain or loss will be recognized by each of Target 1, Target 2 and Target 3 upon the transfer of all of their assets to Acquiring in exchange for Acquiring stock and the assumption by Acquiring of each of the Target 1, Target 2 and Target 3 liabilities, as described above (§ 361(a) and § 357(a)).

(4) No gain or loss will be recognized by each of Target 1, Target 2 and Target 3 on the distribution of the Acquiring stock to its shareholders (§ 361(c)(1)).

(5) No gain or loss will be recognized by Acquiring upon its receipt of the assets of each of Target 1, Target 2 and Target 3 in exchange for Acquiring stock (§ 1032(a)).

(6) The basis of the each of Target 1, Target 2 and Target 3 assets in the hands of Acquiring will be the same as the basis of such assets in the hands of each of Target 1, Target 2 and Target 3 immediately prior to the transfer (§ 362(b)).

(7) The holding period of each respective Target's assets in the hands of Acquiring will include the period during which such assets were held by each of Target 1, Target 2 and Target 3 (§ 1223(2)).

(8) No gain or loss will be recognized by the Shareholders upon their receipt of the Acquiring stock in exchange for their Target 1, Target 2 and Target 3 stock, as described above (§ 354(a)(1)).

(9) The basis of the shares of the Acquiring stock received by the Shareholders will be the same as their bases in each of the Target 1, Target 2 and Target 3 stock surrendered in exchange therefore (§ 358).

(10) The holding period of the Acquiring stock received by the Shareholders will include the holding period of the Target 1, Target 2 and Target 3 stock surrendered in exchange therefore, provided that each of the Target 1, Target 2 and Target 3 stock is held as a capital asset on the date of the exchange (§ 1223(1)).

(11) The taxable year of each of Target 1, Target 2 and Target 3 will end on the effective date of the transaction (§ 381(a)). As provided in § 381(a), Acquiring will succeed to and take into account the items of each of Target 1, Target 2 and Target 3 described in § 381(c), subject to the provisions and limitations of §§ 381, 382, 383, and 384.

(12) Acquiring will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of each of Target 1, Target 2 and Target 3 as of the date of the transfers. Any deficit in earnings and profits of Target 1, Target 2, Target 3 or Acquiring will be used only to offset the earnings and profits accumulated after the date of the transfers (§ 381(c)(2) and § 1.381(c)(2)-1).

(13) Any loss or deduction disallowed under § 1366(d)(1) and § 1.1366-2(a) with respect to any shareholder of Target 1, Target 2 and Target 3 will be available to that shareholder as a shareholder of Acquiring. Therefore, a shareholder will be entitled to recognize the suspended losses to the extent that shareholder has basis in the stock of Acquiring. To the extent a shareholder recognizes a loss, that shareholder must reduce the shareholder's basis in the Acquiring stock under § 1367(a)(2). Section 1.1366-2(c)(1).

Caveats

The rulings contained in this letter are based upon information and representations submitted by the Taxpayers and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any material submitted in support of the request for rulings, it is subject to verification on examination.

No opinion is expressed or implied about the tax treatment of the Proposed Transaction under other provisions of the Code or regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not expressly covered by the above rulings. In particular, no opinion is expressed about ineligible shareholders of an S corporation.

The ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Each taxpayer involved in this transaction should attach a copy of this ruling letter to the taxpayer's federal income tax return for the taxable year in which the transaction is completed. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file in this office, a copy of this ruling letter will be sent to your authorized representative.

Sincerely,

Lewis K Brickates
Chief, Branch 4
Associate Chief Counsel
(Corporate)